

<b>TO:                      Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court                      District of Minnesota                      on the following

☐ Trademarks or    ☒ Patents.    ( ☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO. 11cv01714	DATE FILED 6/28/2011	U.S. DISTRICT COURT District of Minnesota
PLAINTIFF Blazek Glass s.r.o, f/k/a J. Blazek SKLO Podebrady s.r.o., and Mr. Dalibor Blazek		DEFENDANT Top Notch Wellness Co
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,488,034		
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK                      HOLDER OF PATENT OR TRADEMARK
1	
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3	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Blazek Glass s.r.o, f/k/a J. Blazek SKLO  
Podebrady s.r.o., and  
Mr. Dalibor Blazek,

Plaintiffs,

v.

Top Notch Wellness Company, Richard  
Lloyd-Roberts d/b/a Top Notch Wellness  
Company, Colleen Lloyd-Roberts d/b/a  
Top Notch Wellness Company,

Defendants.

**Case No.:**

**JURY TRIAL DEMANDED**

**COMPLAINT**

Come now the Plaintiffs, Blazek Glass s.r.o, f/k/a J. Blazek SKLO Podebrady s.r.o., and Mr. Dalibor Blazek, for their Complaint against Defendants, Top Notch Wellness Company, Richard Lloyd-Roberts d/b/a Top Notch Wellness Company, and Colleen Lloyd-Roberts d/b/a Top Notch Wellness Company, state and allege as follows:

**THE PARTIES**

1. Plaintiff Blazek Glass s.r.o, f/k/a J. Blazek SKLO Podebrady s.r.o. ("Blazek Glass"), is a business entity of the Czech Republic having a principal place of business at Olbrachtova 600, 29001 Podebrady, Czech Republic.

2. Plaintiff Mr. Dalibor Blazek, is an individual with the legal address of Palachova 688, 29001 Podebrady, Czech Republic.

3. Upon information and belief, Defendant Top Notch Wellness Company ("Top Notch"), is a business entity organized under the laws of South Carolina, having a

principal place of business at 427 Laurel Hills Road, Fort Mill, South Carolina 29707-8720.

4. Upon information and belief, Defendant Richard Lloyd-Roberts (“Richard Lloyd-Roberts”) is an officer or principal of Top Notch and an individual residing at 427 Laurel Hills Road, Fort Mill, South Carolina 29707-8720.

5. Upon information and belief, Defendant Colleen Lloyd-Roberts (“Colleen Lloyd-Roberts”) is an officer or principal of Top Notch and an individual residing at 427 Laurel Hills Road, Fort Mill, South Carolina 29707-8720.

### **JURISDICTION**

6. This is an action for patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271 and 282-85.

7. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332 and 1338(a).

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendants have engaged in the distribution, offer for sale, or both, of products embodying the inventions of United States Patent Nos. 6,488,034 and 6,694,988 in this judicial district and throughout the United States.

### **BACKGROUND**

9. Blazek Glass is engaged in the business of making and selling glass nail files to customers around the world in numerous shapes and sizes.

10. On December 3, 2002, United States Patent No. 6,488,034 (“the ‘034 patent”) entitled FILE, PARTICULARLY NAIL FILE, was duly and legally issued by

the United States Patent and Trademark Office (“USPTO”). Mr. Dalibor Blazek is the owner of all right, title, and interest in the ‘034 patent. Blazek Glass is the exclusive licensee of the ‘034 patent.

11. On February 24, 2004, United States Patent No. 6,694,988 (“the ‘988 patent”) entitled FILE, PARTICULARLY NAIL FILE, was duly and legally issued by the USPTO. Mr. Dalibor Blazek is the owner of all right, title, and interest in the ‘988 patent. Blazek Glass is the exclusive licensee of the ‘988 patent.

12. Defendants are each engaged, *inter alia*, in the business of importing, distributing and/or selling glass nail files. Defendants have purposefully imported, distributed, sold and offered for sale such glass nail files throughout the United States.

13. Upon information and belief, Defendants are each directly engaged in the importation, distribution and sale of infringing products as alleged herein. Defendants conduct business via the website [www.nailfile.net](http://www.nailfile.net), which is registered to Defendant Colleen Lloyd-Roberts at 427 Laurel Hill Road, Fort Mill, South Carolina 29707.

14. Upon information and belief, Defendant Richard Lloyd-Roberts is individually directly engaged in the importation, distribution and sale of infringing products as alleged herein. Upon information and belief, Defendant Richard Lloyd-Roberts uses the name Top Notch as an alias to operate his business. Upon information and belief, Richard Lloyd-Roberts is an officer or principal of Top Notch.

15. Upon information and belief, Defendant Colleen Lloyd-Roberts is individually directly engaged in the importation, distribution and sale of infringing products as alleged herein. Upon information and belief, Defendant Colleen Lloyd-

Roberts uses the name Top Notch as an alias to operate her business. Upon information and belief, Colleen Lloyd-Roberts is the president, and an officer or principal, of Top Notch.

16. Defendants were first put on actual notice of their infringing activities on November 19, 2007, via letter from Plaintiffs' counsel.

17. Thereafter, the parties discussed purchasing glass nail files from Plaintiffs throughout 2007 and 2008. Defendants eventually stopped communicating with Plaintiffs and continued selling the accused products.

18. Defendants were again put on actual notice of their infringing activities by way of written correspondence on at least February 5, May 6, June 7, September 21, 2010, and May 12, 2011.

19. Plaintiffs have expended a substantial amount of money and effort in making and selling their patented glass nail files. Defendants' business of importing, distributing and selling infringing glass nail files is in violation of Plaintiffs' patent rights.

**COUNT I – INFRINGEMENT OF U.S. PAT. NO. 6,488,034**

20. Plaintiffs restate the allegations set forth in paragraphs 1-19 and incorporate them herein by reference.

21. By virtue of his ownership of the '034 patent, Plaintiff Mr. Dalibor Blazek maintains the right to sue thereon and the right to recover for infringement thereof.

22. As exclusive licensee of the '034 patent, Plaintiff Blazek Glass maintains the right to sue thereon and the right to recover for infringement thereof.

23. Defendants have directly infringed the '034 patent through the

manufacture, use, sale, offer for sale, distribution and or importation of certain glass nail files.

24. Defendants have had actual knowledge of the '034 patent and their infringement of this patent and has been and continues to be willful and deliberate.

25. Plaintiffs have been damaged by Defendants' infringement of the '034 patent and will continue to be damaged in the future unless Defendants are permanently enjoined from infringing the '034 patent, contributing to the infringement of the '034 patent, and/or inducing the infringement of the '034 patent by others.

26. Plaintiffs have satisfied the notice provisions of 35 U.S.C. § 287.

**COUNT II – INFRINGEMENT OF U.S. PAT. NO. 6,694,988**

27. Plaintiffs restate the allegations set forth in paragraphs 1-26 and incorporate them herein by reference.

28. By virtue of his ownership of the '988 patent, Plaintiff Mr. Dalibor Blazek maintains the right to sue thereon and the right to recover for infringement thereof.

29. As exclusive licensee of the '988 patent, Plaintiff Blazek Glass maintains the right to sue thereon and the right to recover for infringement thereof.

30. Defendants have directly infringed the '988 patent through the manufacture, use, sale, offer for sale, distribution and or importation of certain glass nail files.

31. Defendants have had actual knowledge of the '988 patent and their infringement of this patent and has been and continues to be willful and deliberate.

32. Plaintiffs have been damaged by Defendants' infringement of the '988

patent and will continue to be damaged in the future unless Defendants are permanently enjoined from infringing the '988 patent, contributing to the infringement of the '988 patent, and/or inducing the infringement of the '988 patent by others.

33. Plaintiffs have satisfied the notice provisions of 35 U.S.C. § 287.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment that:

- A. Defendants have directly infringed one or more claims of the '034 patent;
- B. Defendants have directly infringed one or more claims of the '988 patent;
- C. Defendants have willfully infringed one or more claims of the '034 patent;
- D. Defendants have willfully infringed one or more claims of the '988 patent;
- E. Defendants, their officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of the '034 patent;
- F. Defendants, their officers, agents, servants and employees, and those persons in active concert or participation with any of them be enjoined from further infringing, contributing to the infringement, or inducing the infringement of the '988 patent;
- G. Plaintiffs be awarded transfer and ownership of the domain name nailfile.net;
- H. An accounting be had for the damages arising out of Defendants' infringement of the '034 patent, including treble damages for willful infringement as

provided by 35 U.S.C. § 284, with interest;

I. An accounting be had for the damages arising out of Defendants' infringement of the '988 patent, including treble damages for willful infringement as provided by 35 U.S.C. § 284, with interest;

J. Plaintiffs be awarded their attorneys' fees, costs, and expenses in this action; and

K. Plaintiffs be awarded such other and further relief as this Court may deem necessary and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury of all issues so triable.

Respectfully submitted,

**BLAZEK GLASS S.R.O, f/k/a  
J. BLAZEK SKLO PODEBRADY S.R.O., and  
MR. DALIBOR BLAZEK,  
Plaintiffs**

By their attorneys,

Dated: June 28, 2011

By: s/Heather J. Kliebenstein  
Anthony R. Zeuli #0274884  
Heather J. Kliebenstein #337419  
MERCHANT & GOULD  
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JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Blazek Glass s.r.o., f/k/a J. Blazek SKLO  
 Podedbrady s.r.o., and Mr. Dalibor Blazek

(b) County of Residence of First Listed Plaintiff  
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Heather Kliebenstein, Merchant & Gould, 3200 IDS Center, 80 S.  
 8th Street, Minneapolis, MN 55402 (612) 332-5300

## DEFENDANTS

Top Notch Wellness Co., Richard Lloyd-Roberts d/b/a TNWC.,  
 Colleen Lloyd-Roberts d/b/a TNWC

County of Residence of First Listed Defendant  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
 LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                           | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                        | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Foreign Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACTS	PERSONAL INJURY	PERSONAL INJURY	PROPERTY	LABOR	SECURITY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Consumer Credit	<input type="checkbox"/> 450 Consumer Credit
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Consumer Credit	<input type="checkbox"/> 460 Consumer Credit
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 690 Other		<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal			<input type="checkbox"/> 490 Cable/Sat. TV	<input type="checkbox"/> 490 Cable/Sat. TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury				<input type="checkbox"/> 510 Selective Service	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract					<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability					<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise					<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 890 Other Statutory Actions
					<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 891 Agricultural Acts
					<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 892 Economic Stabilization Act
					<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 893 Environmental Matters
					<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 894 Energy Allocation Act
					<input type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 895 Freedom of Information Act
					<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
					<input type="checkbox"/> 930 Constitutionality of State Statutes	<input type="checkbox"/> 930 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Recognized ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite to U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Secs. 1331, 1332 and 1335(a)  
 Brief description of cause:  
 Patent Infringement

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

06/28/2011

*Heather Kliebenstein*

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RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE